

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15991 of 2004

Between:

M/s Sri Prasannanjaneya Dall Producers, Narasaraopeta, Guntur
District, rep.by its Proprietor Mr.Kuppala Samba Siva Rao, S/o Subba
Rao, aged about 30 years

..... PETITIONER

AND

The Commercial Tax Officer, Narasaraopeta, Guntur District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction particularly in the nature of Writ of Mandamus declaring the impugned revised proceedings dated 31-07-2004 in G.I.No.17337/01-02 passed by the Commercial Tax Officer, Narsaraopeta, Guntur District in purported exercise of Rule-50 of the APGST Rules, 1957, enhancing the assessed turnover by addition of the turnover in dispute for assessment for the first time and the consequent enhancement in the liability of the petitioner to tax under the APGST Act, 1957, without issuance of show Cause notice and also without providing an opportunity of being heard as mandated in the Rule-50 as illegal, arbitrary, improper, without authority of law, in violation of the principles of natural justice as also ultra vires the provisions of Rule-50, by holding reassessment/revision of assessment for the purpose of addition of turnover is incapable of being comprehended within the expression of arithmetical or clerical mistake and to set aside the same and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.M.V.J.K.KUMAR

Counsel for the Respondent No.: GP FOR COMMERCIAL TAX

The Court made the following O R D E R:

(Per the Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

The only grievance of the petitioner is that a revised assessment order has been passed against the petitioner without giving notice to it.

On the last occasion, when the case was taken up, learned Government Pleader for Commercial Taxes had sought time to seek instructions. He has fairly conceded that the revised assessment order has been passed without notice to the petitioner, which was in contravention of Rule 50 of the Andhra Pradesh General Sales Tax Rules, 1957.

In this view of the matter, we allow the writ petition, quash the impugned order with liberty to the respondent to proceed, if so advised, against the petitioner and pass appropriate orders, in accordance with law, after complying with the mandatory Rule 50 of the Andhra Pradesh General Sales Tax Rules, 1957, and other relevant provisions. No order as to costs.

(BILAL NAZKI, J)

22nd September, 2004.

(S.ANANDA REDDY, J)

vrn

To

1. The Commercial Tax Officer, Narasaraopeta, Guntur District
2. Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P., Hyderabad (OUT)

3. Two C.D copies.